

**COMMON LAW HOLDERS (CLH) OF THE KOKATHA PEOPLE MEETING  
TO CONSIDER THE OZ MINERALS TRANSMISSION LINE  
SATURDAY 30 MARCH 2019  
Venue: Central Augusta Football Club, Port Augusta  
M I N U T E S**

**Meeting Objectives:**

- Find out about the proposal for the Kokatha Aboriginal Corporation RNTBC ICN 8093 (in its capacity as a prescribed body corporate acting on behalf of the Kokatha Common Law Holders) to enter into the 'Transmission Line Agreement' (the 'Agreement') with OZ Minerals;
- Understand the purpose and nature of the Agreement;
- Ask questions about the contents of the Agreement;
- Make the 'native title decision' about the Agreement; and
- To consider other existing Part 9B Agreements

**128 people present – 89 Common Law Holders**

**Invitees:**

Stephen Bromley (SANTS)  
Jodie Martin (SANTS)  
Marilyn Wilson (SANTS)  
Sandy Jarvis (Anthropologist)  
Shaun Berg (Berg Lawyers)  
Geoff Deans (OZ Minerals)  
Huw Gerner (OZ Minerals)  
Matthew Hender (OZ Minerals)  
Kevin Mains (OZ Minerals)  
Kevin Kerry (ElectraNet)  
Charlie Rabbah (ElectraNet)  
Aleicia Wright (ElectraNet)  
Cheryl Ross (Minute Taker)

**Meeting opened by Chairperson of KAC – Andrew Starkey at 10.00**

**Agenda:**

- 1. Registration of Common Law Holders attending:**
- 2. Welcome by Chairperson of the Kokatha Aboriginal Corporation RNTBC ICN 8093:**

Andrew advised that the meeting today had a packed Agenda. He reminded Common Law Holders (CLH) of the Code of Conduct and that this would be applied

### 3. Minute's Silence held:

### 4. Apologies:

Trevor Warrior

### 5. Discussion on the Transmission Line Agreement:

Chairperson handed over the meeting to Geoff Deans (OZ Minerals). The Transmission proposal was put on the overhead for all CLH to see. Geoff recognised the Traditional Owners of the country past and present.

#### **Attach to the Minutes the OZ Minerals presentation**

Geoff advised there are 220 kms of line that go through KAC country. This meeting is to receive consent to run the line. There are four (4) meeting objectives –

Joyleen asked Shaun whether there is a quote of the community that needs to be present for the meeting. Shaun advised this is a question which is typically asked of the anthropologists – the CLH meeting is for representative of Kokatha able to make decisions. **Discussion around the room on this topic.**

There is no percentage of people who need to be here – just representation from Kokatha.

Geoff requested the meeting to ask questions at the end of the presentation. The voting will be up to the meeting – either a show of hands or a secret ballot. SANTS is present to oversee the integrity of the process – there are legal processes to be followed in terms of the Native Title Act and KAC Prescribed Body Corporate (PBC).

#### **Introduction and Presentation:**

Geoff advised this is a big project and OZ is here today to advise of the process and the project. There are three (3) companies associated with the project –

- OZ Minerals (4 staff at meeting whom he introduced);
  - ElectraNet (3 staff at meeting whom he introduced);
  - UGL – the construction company that ElectraNet have engaged to build the line.
- 
- OZ Minerals owns the Prominent Hill min which has been running for 10 years – the open pit is now closed and the mine has gone underground. About 18 months ago BHP advised that power agreement would not be renewed and OZ have until August 2020 to remove themselves from the line. The best option for OZ was to build a new line;
  - In real terms there will be a sub station and a 275 kv line up to Mt. Gunson (see presentation) – presentation showed where the lines are and where they will be;
  - OZ want the line to work off the current tracks where the cultural heritage surveys have already been completed – to make sure the line does not go where it should not
  - There will be a 50 metre easement with sub stations that need to be built or upgraded;
  - Telecommunication lines need to go to the towers for diagnostic purposes

- Access tracks are required for building and maintenance;
- ElectraNet will own the line and be responsible for the upkeep – decisions made by CLH will be for a very long time

**The above is a summary of the power project as per the presentation**

Comment from the floor:

- John Reid advised he was happy to see people here today with their families. He was concerned about the information flow as this Agreement has been there since December 2018. It is expected to provide the document now and digest it later – it would have been better to put out information to people and give them time to consider it. This meeting requires informed consent;
- Geoff advised the process could be gone through regarding the Agreement and how it has got to the point of this meeting. It has been a long time in the making;
- John Reid also asked that after each section questions to be asked;
- Tanya asked what is meant by the ‘underground spur’ – Geoff explained it is a trench with a cable running from the line to Pimba power station – about a 7 km trench into the existing track;
- Question was asked about when construction is due to start. Preliminary construction is taking place at Roxby Downs for some trackwork; some clearing pads etc – main construction of the line is about 4-5 months away;
- Question about whether Board knew of this timing – Geoff advised this part of today’s process – OZ has been working with the Heritage team and the Executive and Board of KAC. In answer to rumours about the Agreement has already been signed off, Geoff advised it has not been signed off – it is a Native Title process. It has gone to the Board and been approved, but not gone to the community;
- Question was asked about whether CLH meeting was expected to catch up on everything today with the answer being yes – would then go forward if agreed;
- Query about why information had not been provided prior to this CLH meeting. The Board has seen it – it has been on the KAC website with the information; and has been available at the KAC office; and Directors to inform their family groups;
- Employment opportunities are covered further in the presentation.

**The above questions related to Objective Number 1**

**Objective No2:**

Geoff then proceeded to go through the presentation. Items in green are completed; the orange ones are underway; and the blue ones have not commenced.

- He provided information on the line and how it came about in terms of surveying – map available around the room for CLH to view – they were done initially by way of aerial information in March and June 2018;
- Maps then had areas circled where work could not occur;
- 209 exclusion zones were identified with 70 conditions put in the report that are now in the engineering drafting submission;

- Still working out where the poles will go. Geo tests to ascertain the ground conditions;
- UGL is the construction company. There were workshops with the Heritage team to review the entire process to ensure ElectraNet and UGL understand the process. There was a review over Lake Windabout when a vehicle became bogged;
- August 2020 will be when the power is turned on. Huge amount of work to be carried out prior to this date;
- John Reid then asked about details of the heritage area and not having information about them. He asked whether a reputable anthropologist had been used. Spoke about the need to have pictorial images of where the sites are;
- Geoff advised that many people had been involved with Carrapateena two years ago. Agreements had been made between OZ Minerals and KAC. Work carried out then was of a high standard and is being used as the basis of the work being carried out – the outputs are where people can go and not go;
- John advised that people are asking for a copy of something to read and consider the sites. Geoff stated that OZ is a mining company and that KAC has the cultural data – OZ is unable to release reports without the consent of KAC. Shaun Freeman was the anthropologist used – 8 months;
- Geoff advised there is the NTMA which has a cultural heritage aspect – representatives from KAC are 4 men and 4 women. Oz provides the information about areas they want surveyed and then KAC nominates the 8 representatives to work with OZ on these;
- Elaine stated this is about heritage. There are a significant number of CLH – a number of Directors have requested this information which has not been passed on. Unable to pass on to family members if people do not have the basic understand – we have not had access to the heritage surveys even as Directors. Geoff requested to go back to the presentation – this meeting is about the process – outputs of the heritage reports; who are involved; and who has access to them is not part of this Agreement. This is a matter for KAC;
- Joyleen stated that historically those reports have not been released to the public or to CIH or to the Corporation. There has been a change in leadership of KAC. **Discussion then lead to where information is stored and who had access to them and what information had been removed etc; - ongoing discussion on this topic;**
- Geoff reiterated that the cultural process involves 4 men and 4 women – OZ put in a request for a particular area to be surveyed – this goes to KAC. Over the last 12-18 months there has been a Cultural Co-ordinator. There is also an independent heritage person (OZ) – when reviews are completed they go to KAC and then to OZ. OZ does not determine the information - the only information that goes out is the GIS data. No cultural information is provided – only the area. The 8 people working on the surveys vary. Copies of the surveys are in the KAC office.

#### **Discussions around the room regarding survey team members and family involvement**

**If members want to be considered for survey teams, go to the KAC office and put down their names**

#### **Break at 11.08 – returned to meeting at 11.35**

Geoff then recapped on the morning session regarding Objective 2.

Summary of the works involve:

- Access Tracks – 5 metres wide to allow two vehicles to pass each other;
  - Clearance of the area where laydown or transmission poles go – poles are 4 metres in a circle;
  - Stockpiles – rehabilitation activities with topsoil etc;
  - Tower assembly and installation – depending on conditions will vary;
  - Cable stringing – use of winches. Due to recent accident, helicopters will not be used in future – safety is the number one priority;
  - Commissioning – tests and inspections;
  - Clean up and rehabilitation – temporary disturbances
- Today is with OZ and CLHs;
  - After that will be the Agreement with ElectraNet. OZ will be paying a fee for the use of the line;
  - Question about why the agreement is with OZ and not ElectraNet. Geoff advised that when the project commenced it was with OZ and KAC and OZ values the relationship with KAC. OZ want to be in the region for a long time.

### **Objective 3:**

- There have been at least 3 drafts presented to the KAC Board. Shaun has sat down with Directors and discussed the various clauses. The summary has been on the website for 3 weeks and the full agreement has been in the KAC office for the last week;
  - There are 3 pastoral properties – Purple Downs; Roxby Downs; Andamooka. BHP in terms of the Agreement, KAC will be the recipients of the Agreement, i.e. compensation, activities etc. That is why BHP is a party;
  - OZ has agreement with BHP separately for the line, i.e. they are close to each other. OZ will go under their powerline;
  - The Tripartite Agreement – Native Title; Aboriginal Heritage Act; Pastoral lease with BHP and KAC;
  - The development of the Transmission Line Agreement has been with OZ and KAC Board;
  - Agreement Structure Summary and who is accountable to who is in this summary. It is emphasised that Native Title for in perpetuity and therefore a strong agreement is required with ElectraNet;
  - Important that CLH understand the Agreement is with CLH – important that the Agreement is voted on by CLH, but KAC manages it on behalf of CLH;
  - Elaine spoke of the fact that not everyone at the meeting is a KAC member – there is a distinction between a member and a CLH;
- Question about Clause 30.1 – Geoff advised it is around reports by Kokatha. There is a certain period by which reports are to be received – Geoff to check up on this period
  - Heritage Monitors (Clause 30.12): This is a summary of the main points of the Agreement. ElectraNet will have an Agreement with KAC on the future life of the asset, including decommissioning;
  - Compensation: fixed amount (total) over two years. Process had lot of conversation with all parties – two half day meetings with OZ and the KAC Board. The structure and the number to

be presented today as part of the consent process – the number is fixed but where the funds are to go is up to KAC in consultation with the Board;

- As part of good faith when OZ got the construction licence granted by the State, OZ and ElectraNet agreed to pay KAC \$500k (non refundable). Over the next two years, two payments of \$500k to the Corporation; The payment schedule is part of the presentation;
- Total payments come to \$3m. How the funds are to be distributed is up to KAC. It is a separate deed attached to the Agreement which was developed in conjunction with the KAC Board. By July 2020 it will be transferred into the relevant areas.

**Process from now:**

Shaun advised the meeting it was now up to them. In relation as to how a decision is made – there is a process as part of the Native Title regulations. There are number of resolutions and an important resolution regarding consent. There are a show of hands for resolutions – secret ballot for consent.

Shaun read out the process resolutions and the consent resolution and put on the Board

**There was a break at 11.27 – lunch and then return to meeting at 1.30**

**The 3 companies involved were requested to leave the room to allow discussion. Left room at 1.31.**

Shaun then went through the process and spoke of the issues that needed to be focussed on. He stressed there were no agreements in place at this time for the project.

Discussions with ElectraNet commenced earlier this year – OZ made the promise to KAC that if KAC suffers any loss during the construction phase, OZ will cover the loss – this is the indemnity. Shaun and the Board were of the opinion that this is not enough as it does not cover the work that ElectraNet does. Negotiations went well, but were not concluded - the key point being in relation to their liability being limited or not – KAC say their liability to take down infrastructure needs to be unlimited – ElectraNet advise it should be capped at \$2.5m but may be willing to take liability for taking down the infrastructure – this has not been agreed on as yet.

Provided that the agreement with ElectraNet has been executed, the CLH would then discuss the provision of consent of the Transmission Line Agreement. This would mean that the Agreement will not need to be rejected – or CLH can agree to this without the ElectraNet agreement.

Shaun answered a question about ‘loss’ by advising loss is always set in legal terms in case the Agreement is breached – this would constitute a loss.

The reason Shaun spoke about the agreement and decommissioning etc., is due to the fact the Agreement with OZ is only in relation to consent and construction. There are issues with the other 3 categories –

1. Maintenance of the line – ElectraNet are looking to access the line and carry out regular maintenance, i.e. flyover of lines etc – at laws if you grant an easement it does not give your consent to access the land;

2. In relation to capital upgrades, ElectraNet are required to give notice and go through the normal heritage processes. They have agreed to take down the powerline within the term which is 50 years. KAC has requested they provide a bond that if they do not take it down, KAC can go to the bank for the guarantee and get the funds. They have offered \$2.5m but this has not been resolved.

Questions from floor about how do CLH have any faith in KAC when funds have already been transferred without consultation. Also when OZ does the presentation, it is expected everyone will vote – more time is needed to consider this. How is it that funds are transferred without the agreement of CLH.

Shaun advised the CLH decision is in relation to matters which affect Native Title. KAC entered into the Settlement ILUA and made agreement to provide certain conditions in 2014. There are a number of things that the transmission line request. The funds paid are non refundable.

In regard to information to CLH you would need to ask family representatives and the KAC Board. Shaun's position is to act as the KAC lawyer and to negotiate on behalf of the Board. There was 21 days notice given to CLH and information provided on the website.

Question of what would happen if there was a natural disaster of some kind and who would cover the cost. Shaun advised something like this would fall under 'act of God' provisions. This is not covered under the Agreement. If an emergency occurs, ElectraNet will repair the lines.

Shaun recommended that if CLH accept the Agreement, then alter Clause 9. Another aspect completed is that ElectraNet is not able to provide electricity to anyone else – it will require consent from the CLH.

Elaine spoke to the meeting about how the issues are very complex – some of current Directors were not Directors back when this issue started. Some people do not understand.

Shaun advised there are strong points to discuss and happy to take questions.

**Shaun went through the document (about 50 pages) point by point (on Board). Rest of document is basically maps with a table of contents at the front.**

Shaun then advised meeting to return the 3 companies back into the room to observe – SANTS to count the hands for voting – again, secret ballot for the Consent.

**The following Resolutions as per the notification were put to CLH –**

**6. A majority is required for a Native Title Decision.**

*A native title decision for the purpose of this meeting shall be made by a decision of the majority of common law holders present and able to vote at this meeting*

Voting: For: 119 Against: 1  
CARRIED

**7. Consultation:**

*It is acknowledged by the common law holders that they have been consulted with in relation to the proposal to enter into the Transmission Line Agreement*

Voting: For: 74 Against: 18  
Abstention: None  
CARRIED

**8. Purpose and Nature of the Agreement**

*The common law holders acknowledge that they have understood the purpose and nature of this proposal for Transmission Line Project to a level sufficient to decide whether to enter into the Agreement*

Voting: For: 65 Against: 58  
CARRIED

**9. Consent to Agreement:**

*The common law holders consent to Kokatha Aboriginal Corporation RNTBC ICN 8093 entering into and executing the Transmission Line Agreement*

Agreement was then amended to the following –

*Provided that the agreement with ElectraNet has already been executed, the Kokatha Common Law Holders do consent to the Transmission Agreement with OZ Minerals and BHP Billiton being executed*

Voting was conducted by SANTS as a secret ballot –

Voting: For: 96 Against: 37  
CARRIED



**10. Ancillary Activities:**

*The common law holders approve Kokatha Aboriginal Corporation RNTBC ICN 8093 to do all things which are necessary to complete the process of entering into and executing the Transmission Line Agreement*

Voting: For: 83 Against: None  
Abstention: 1  
CARRIED

**11. Certificate:**

*The common law holders authorise and direct the following persons to complete the certificate required under the Native Title (Prescribed Body Corporate) Regulations, 1991, namely Christopher Larkin, Glen Wingfield, Khatija Thomas, Michael Turner and Max Reid*

This Resolution to be altered to new Executive plus Nina Turner, Elaine Kite; Derryn Reid; Andrew Starkey; Anna Strzelecki.

Voting: For: 101 Against: None  
CARRIED

**12. Compliance:**

*The common law holders acknowledge that Kokatha Aboriginal Corporation RNTBC ICN 8093 have in consulting with them and obtaining their consent complied with the rules contained in the Rule Book of the Kokatha Aboriginal Corporation RNTBC ICN 8093 and the Native Title (Prescribed Body Corporate) Regulations, 1999*

Voting: For: 109 Against: None  
CARRIED

